



# *Appendix G*

## *Review and Revision*

### *Guidelines*

*Regional Housing Needs Determination  
Association of Bay Area Governments*

## Appendix G

### Regional Housing Needs Determination (RHND) Revision Process

At their May 18, 2000 meeting, the ABAG Executive Board directed staff to modify the current methodology and restart the 90 day revision period, effective June 1, 2000. This initiated a new 90-day revision and response period, allowing each jurisdiction more time to comment, and/or propose revisions to their RHND allocation. The modified timeline was as follows:

- Third release of RHND allocations to each jurisdiction (June 1, 2000)
- 90 Day jurisdictional review period  
(Begins June 1, 2000-----Ends August 31, 2000)
- 60 day ABAG Staff response to jurisdictional comments and questions period  
(Begins September 1, 2000-----Ends October 30, 2000)
- Executive Board approves final RHND numbers  
(November 16, 2000)
- Appeals Process initiated  
(December 1, 2000)

By October 30, 2000, each jurisdiction submitted in writing any proposed revision to the RHND allocations according to guidelines defined in Government Code, section 65584(a). The following section describes the process and procedures for requesting revisions to the RHND allocation for jurisdictions in the ABAG region.

### Revision Guidelines, Criteria and Definitions

Within 90 days following a determination of housing needs allocation by the ABAG Executive Board a city or county may propose to revise the determination of its share of the regional housing need in accordance with the considerations set forth in government code 65584, subdivision (a). The proposed revised share shall be based upon available data and accepted planning methodology, and supported by adequate documentation, including analysis of factors and circumstances justifying a revision.

### Review and Determination of Request for Revision

Within 60 days after the time period for the revision by the city or county, ABAG shall accept the proposed revision, modify the earlier determination, or indicate, based upon available data and accepted planning methodology, why the proposed revision is inconsistent with the earlier determination of housing need.

The following factors will be used in the review process (as applies):

- a) Request for revision must be:
  - i. Based upon available data
  - ii. Take into consideration market demand for housing
  - iii. Employment opportunities
  - iv. The availability of suitable sites and public facilities

- v. Commuting patterns
  - vi. Type and tenure of housing need
  - vii. The loss of units contained in assisted housing developments as defined in paragraph (8) of subdivision (a) of Section 65583, that changed to non-low-income use through mortgage prepayment, subsidy contract expirations, or termination of use restrictions,
  - viii. The housing needs of farmworkers
- b) Any revision will be localized within the same county as the requesting jurisdiction

Additional criteria to be considered in the Revision Process

**Ordinances limiting residential construction do not justify a revision.**

Any ordinance, policy, or standard of a city or county that directly limits, by number, the building permits that may be issued for residential construction, or limits for a set period of time the number of buildable lots that may be developed for residential purposes, shall not be a justification for a determination or a reduction in the share of a city or county of the regional housing need.

**Exemptions: Moratorium on residential construction.**

Any city or county that imposes a moratorium on residential construction for a specified period of time in order to preserve and protect the public health and safety is exempt from this limitation. If a moratorium is in effect, the city or county shall, prior to a revision, adopt findings that specifically describe the threat to the public health and safety and the reasons why construction of the number of units specified as its share of the regional housing need would prevent the mitigation of that threat.

**Power to review and revise housing need does not extend to implementation**

Any authority to review and revise the share of a city or county of the regional housing need granted under this section shall not constitute authority to revise, approve, or disapprove the manner in which the share of the city or county of the regional housing need is implemented through its housing program.

Revision of County numbers

ABAG shall reduce the share of regional housing needs of a county if all of the following conditions are met:

- a) One or more cities within the county agree to increase its share or their shares by an amount that will make up for the reduction.
- b) The transfer of shares shall only occur between a county and cities within that county.
- c) The county's share of low-income and very low-income housing shall be reduced only in proportion to the amount by which the county's share of moderate- and above moderate-income housing is reduced.
- d) ABAG shall have authority over the approval of the proposed reduction, taking into consideration the criteria of govt. code 65584-subdivision (a).

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### Revision Determination by ABAG

If ABAG accepts the proposed revision or modifies its earlier determination, the city or county shall use that share. ABAG shall ensure that the current total housing need is maintained. If ABAG indicates that the proposed revision is inconsistent with the regional housing need, the city or county shall use the share that was originally determined by ABAG. The housing element shall contain an analysis of the factors and circumstances, with all supporting data, justifying the revision. All materials and data used to justify any revision shall be made available upon request by any interested party within seven days upon payment of reasonable costs of reproduction unless the costs are waived due to economic hardship.

### Denial/ Approval of request for revision

If ABAG, does not accept the proposed revision, then the city or county shall have the right to request one public hearing to review the determination within 30 days. The city or county shall be notified within 30 days by certified mail, return receipt requested, of the date of the public hearing regarding the determination. The date of the hearing shall be at least 30 days from the date of the notification. Before making the final determination, ABAG shall consider comments, recommendations, available data, accepted planning methodology, and local geological and topographic restraints on the production of housing.

### Judicial Review

The determination of ABAG shall be subject to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure.

### **Definitions and Criteria**

The following definitions will be used to evaluate each jurisdictions request for a revision of its share of housing need for the region.

1. Accepted Planning Methodology: refers to the logical organization and analysis of acceptable data that is consistent with government code, section 65584(a).
2. Acceptable Data: Alternative data that is used for requesting a revision of a Jurisdiction's RHND allocation must meet all of the following requirements
  - a. Available: data which is generally accessible to the public that is not constrained for use by proprietary conditions or other conditions effectively making it difficult to obtain.
  - b. Accurate: data which is reasonably free from defect, developed in accordance with an established methodology, and have produced reliable estimates over time.
  - c. Current: data that is more recent than existing data sets used in the RHND methodology and thus portrays local conditions in a more accurate and representative method.
  - d. Replicable: data which can be reproduced in other jurisdictions and lend themselves to widespread application to a housing market area larger than a single jurisdiction.

3. Consistent: data which takes into consideration the criteria cited in govt. code, section 65584(a) as further defined in other supporting statutes and case law.
  - a. Market factors for housing
  - b. Employment opportunities
  - c. Commuting patterns
  - d. Availability of suitable sites and public facilities
  - e. Loss of units in assisted housing developments
  - f. Housing needs of farm-workers; and
  - g. Reducing over concentration of affordable housing
1. Regional Housing Needs Determination: refers to the number of units as determined by the State Department of Housing and Community Development (HCD) of which will be allocated during the RHND planning period that considers Household Growth and Employment Patterns in the ABAG region.
2. Supported by adequate documentation: refers to the methods used to acquire and/or compute alternative data, which must be fully explained and incorporated into the revision request.
3. Jobs/Housing Balance: refers to the ratio of jobs and housing in each jurisdiction.
4. Income categories: State Law requires that ABAG distributes the housing need to each jurisdiction based upon HCD defined income categories (Very Low, Low, Moderate, Above Moderate)
  - a. Very Low is defined as income levels which are below 50% of the adjusted gross area median income
  - b. Low is defined as income levels which are greater than 50% and less than 80% of the adjusted gross area median income
  - c. Moderate is defined as income levels which are greater than 80% and less than 120% of the adjusted gross area median income
  - d. Above Moderate is defined as income levels which are equal to or greater than 120% of the adjusted gross area median income.